

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND

HON'BLE MS JUSTICE G. ROHINI

Writ Appeal No.247 of 2007

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Between:

Mohd. Abdul Kareem and ten others

... Appellants

And

State of Andhra Pradesh, rep., by its
Secretary to Government, Irrigation and
Projects Department, A.P. Secretariat,
Hyderabad and four others

... Respondents

Counsel for the appellants : Shri R.V. Nagabhushana
Rao

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::JUDGMENT::

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October 25, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 23-10-2007 passed
by the learned Single Judge in Writ Petition No. 3058 of 2003,
whereby he, after taking cognizance of the conflicting survey and

inspection reports prepared by the Regional Deputy Director and Director, Survey and Land Records, declined to entertain the appellants' prayer for taking action in accordance with survey report dated 18-12-1997 and relegated them to work out their remedies by seeking compensation or alternative land from the competent authority.

In the writ petition filed by them, the appellants pleaded that their grandfather - Shaik Lateef was the owner and pattadar of the land measuring Ac.3.26 guntas in Survey No.843, Ac.3.30 guntas in Survey No.844 and Ac.4.18 guntas in Survey No.855 of Miryalaguda Village, Nalgonda District; that out of that land, the Government of Andhra Pradesh acquired Ac.7.20 guntas by resorting to the provisions of the Land Acquisition Act, 1894; that later on, Ac.5.34 guntas of land was returned to the owner on the ground that the same is no longer required for a public purpose; that they filed Writ Petition No.5087 of 1996 against their threatened dispossession; that the same was disposed of by the High Court by directing the respondents to consider and decide the representation made by them; that C.C.No.956 of 1996 filed by them was dismissed on 29-1-1997 with liberty to file fresh petition; that thereafter, they filed Writ Petition No.4001 of 1997 for issue of a direction to the respondents to cause the survey and demarcation of land owned and possessed by them in Survey Nos.843, 844 and 855; that in compliance of the Court's order, the Regional Deputy Director conducted survey and prepared report dated 18-12-1997; that Writ Petition No.15442 of 1997 filed for protection of the land was disposed of on 15-2-1999 in terms of the order passed in Writ Petition No.15443 of 1997; that Review WPMP No.9423 of 1999 filed by the respondents was allowed by the learned Single Judge and, on that basis, the respondents have got the

boundaries fixed and are seeking to dispossess them.

The learned Single Judge took cognizance of apparently conflicting survey reports and disposed of the writ petition by recording the following observations:

“.....In view of the disputed questions of facts, I am of the opinion that the relief as sought for in the writ petitions cannot be granted, and therefore, they are liable to be dismissed. However, this will not preclude the petitioners from working out their remedies as available under law. The petitioners are also at liberty to approach the competent authority seeking compensation or for alternate lands. Any such application being made by the petitioners in this regard, shall be considered by the authorities concerned sympathetically within a period of three months from the date of receipt of such application.”

We have heard Shri R.V. Nagabhushana Rao and perused the record. In our opinion, the order under challenge does not suffer from patent error of law requiring interference under Clause 15 of the Letters Patent. Undisputedly, the two reports prepared by the authorities of the same department are at variance. Therefore, in exercise of power under Article 226 of the Constitution of India, this Court could not have decided the disputed questions of fact.

With the above observation, the appeal is dismissed leaving the appellants free to avail other remedies in terms of the liberty given by the learned Single Judge.

G.S. SINGHVI, CJ

G. ROHINI, J

October 25, 2007

ks/ARS